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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,322	07/28/2003	Albert Andrew Murrer III	034827-3101	6587

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EXAMINER	
GROSSO, HARRY A	
ART UNIT	PAPER NUMBER
3781	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/629,322	MURRER, ALBERT ANDREW	
	Examiner	Art Unit	
	HARRY A. GROSSO	3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 March 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10, 12-30* is/are pending in the application.

4a) Of the above claim(s) *1-5 and 20-24* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *6-10, 12-19 and 25-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

In response to the BPAI Decision on Request for Rehearing Mailed January 23, 2009, Appellant has elected to re-open prosecution in accordance with 37 C.F.R. 41.50 (b) and submit an amendment of the claims.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 6 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill (5,476,184) in view of Hurwitz (5,620,069).

3. Regarding claim 6, Hill discloses a container system (Figures 1-2) comprising a soft-sided outer shell at least partially collapsible by an unorganized reduction with a plurality of vertical walls, a bottom integrally formed, an open top with a lid (20) and an inner frame having rigid walls (14, 16) that is at least partially collapsible (column 1, lines 53-66). Hill does not teach the shell has a watertight inner layer. Hurwitz discloses a similar container system with an outer shell having a waterproof material as an inner layer (column 2, lines 59-63) It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of an outer shell with a watertight inner layer as disclosed by Hurwitz in the container system disclosed by Hill to prevent moisture from penetrating the outer shell.

4. Regarding claims 12 and 13, Hill discloses the lid is secured with a zipper (28, 30, column 2, lines 47-49)

5. Regarding claim 14, Hill discloses the bottom is structurally reinforced by straps (32, 34, column 49-52).

6. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill as modified by Hurwitz in view of Tattam, of record. Hill as modified by Hurwitz discloses the invention except for the use of the container to transport hazardous materials such as human organs. Tattam discloses a collapsible container that may be used for transportation of organs (column 1, lines 9-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of the container of Hill as modified by Hurwitz for the transport hazardous materials such as human organs since it is known to use collapsible containers for such a purpose.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hill as modified by Hurwitz in view of Boyd-Moss et al, of record. Hill as modified by Hurwitz discloses the invention but does not teach that the outer shell satisfies IATA 602 requirements. Boyd-Moss et al discloses that it is known to construct a transport package that meets IATA 602 requirements to allow the package to be used for transport of hazardous goods (column 1, lines 9-15 and column 8, lines1-7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use materials and construction to meet IATA 602 as disclosed

by Boyd—Moss et al in the container disclosed by Hill as modified by Hurwitz to allow the container to be used for transport of hazardous materials.

8. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hill as modified by Hurwitz in view of Kalal, of record. Hill as modified by Hurwitz discloses the invention except for the vent holes. Kalal discloses a collapsible soft sided container with a liner having vent holes in the outer shell to allow venting of air when the container is collapsed (42, Figure 2, paragraph 0022). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of vent holes in the outer shell as disclosed by Kalal in the container disclosed by Hill as modified by Hurwitz to allow venting of air when the container is collapsed.

9. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill as modified by Hurwitz in view of Mogil, of record.

10. Regarding claim 15, Hill as modified by Hurwitz discloses the invention with the outer shell including an outer fabric layer (column 2, lines 59-63) but does not teach foam insulation. Mogil discloses a soft-sided container (abstract) with an outer fabric layer (88, Figure 10, column 5, lines 40-41) and a foam insulation layer (90). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of foam insulation as disclosed by Mogil in the container disclosed by Hill as modified by Hurwitz to protect the container contents against temperature variation.

11. Regarding claim 16, Hurwitz discloses the outer fabric includes polyester.

12. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill as modified by Hurwitz in view of Travis, of record.

13. Regarding claim 17, Hill as modified by Hurwitz discloses the container of with an inner frame having opposing rigid walls but does not teach an inner frame having opposing rigid longitudinal walls and opposing collapsible side walls, and that the side walls link the ends of the longitudinal walls and allow a reduction in a distance between the longitudinal walls when collapsed. Travis discloses a frame structure capable being used as the inner frame of the invention made of rigid material (Figures 1 and 2, column 2, lines 21-23) with the side walls linking the ends of the longitudinal walls and the walls being collapsible allowing a reduction in a distance between the longitudinal walls (column 2, lines 14 to 25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of the frame structure as disclosed by Travis in the container disclosed by Hill as modified by Hurwitz to provide an inner frame that would provide support for all four of the sidewalls of Hill and fold flat with a thin profile for handling and storage.

14. Regarding claim 18, Travis further discloses the bottom is pivotably engaged to the opposing rigid walls and pivots between open and collapsed positions (column 2, lines 29-30).

15. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hill as modified by Hurwitz and Travis, in view of Kalal, of record.

16. Hill as modified by Hurwitz and Travis discloses the invention except for a fastener that secures the frame in the collapsed position. Kalal discloses a collapsible

soft sided container with a frame having a fastener to secure the container and frame in a collapsed position for ease of handling. (44, Figures 5 and 6, paragraph 0030). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a fastener as disclosed by Kalal on the collapsed inner frame to keep the frame secured in the collapsed position for ease of handling.

17. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hill as modified by Hurwitz in view of McHutchison (WO 02/18210 A1, March 7, 2002). Hill as modified by Hurwitz discloses the invention except for the outer shell capable of withstanding an internal pressure, which produces a pressure differential of not less than 95 kPa in the range of –40 degrees C to +55 degrees. McHutchison discloses an insulted container that it is able to transport human organs at pressures other than atmospheric pressure because this allows organs to be conserved for a longer period of time. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the ability to transport human organs at pressures other than atmospheric pressure in the container of Hill as modified by Hurwitz. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the capability of withstanding an internal pressure which produces a pressure differential of not less than 95 kPa in the range of –40 degrees C to +55 degrees, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA).

18. Claims 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hill in view of Hurwitz, Travis and Bower (1,181,829).

19. Regarding claim 26, Hill discloses a container system comprising a soft-sided outer shell at least partially collapsible by an unorganized reduction with a plurality of vertical walls, a bottom integrally formed, an open top with a lid (20) and an inner frame having rigid walls (14, 16). Hill does not teach the shell has a watertight inner layer. Hurwitz discloses a similar container system with an outer having a waterproof material as an inner layer (column 2, lines 59-63) It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of an outer shell with a watertight inner layer as disclosed by Hurwitz in the container system disclosed by Hill to prevent moisture from penetrating the outer shell.

20. .Hill as modified by Hurwitz does not teach an inner frame having opposing rigid longitudinal walls and opposing collapsible side walls, and that the side walls link the ends of the longitudinal walls and allow a reduction in a distance between the longitudinal walls when collapsed. Travis discloses a frame structure capable being used as the inner frame of the invention made of rigid material (Figures 1 and 2, column 2, lines 21-23) with the side walls linking the ends of the longitudinal walls and the walls being collapsible allowing a reduction in a distance between the longitudinal walls (column 2, lines 14 to 25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of the frame structure as disclosed by Travis in the container disclosed by Hill as modified by Hurwitz to provide an inner frame that would provide support for all four of the sidewalls of Hill.

21. Hill as modified by Hurwitz and Travis does not teach the side walls comprise a vertical crease to allow a reduction of the distance between the longitudinal side walls. Bower discloses a frame structure used as the inner frame of a container made of rigid material with the side walls linking the ends of the longitudinal walls and the side walls comprise a vertical crease to allow a reduction of the distance between the longitudinal side walls (Figures 1-3, page 1, lines 48-59). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of side walls comprising a vertical crease as disclosed by Bowers in the container disclosed by Hill as modified by Hurwitz and Travis to provide an inner frame that would fold flat with a reduced longitudinal dimension to reduce storage space requirements.

22. Regarding claim 27, Travis further discloses the bottom is pivotably engaged to the opposing rigid walls and pivots between open and collapsed positions (column 2, lines 29-30).

23. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hill as modified by Hurwitz, Travis and Bower, in view of Kalal.

24. Hill as modified by Hurwitz, Travis and Bower discloses the invention except for a fastener that secures the frame in the collapsed position. Kalal discloses a collapsible soft sided container with a frame having a fastener to secure the container and frame in a collapsed position for ease of handling. (44, Figures 5 and 6, paragraph 0030). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a fastener as disclosed by Kalal on the collapsed inner frame to keep the frame secured in the collapsed position for ease of handling.

25. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hill as modified by Hurwitz, Travis and Bower in view of Boyd-Moss et al, of record. Hill as modified by Hurwitz discloses the invention but does not teach that the outer shell satisfies IATA 602 requirements. Boyd-Moss et al discloses that it is known to construct a transport package that meets IATA 602 requirements to allow the package to be used for transport of hazardous goods (column 1, lines 9-15 and column 8, lines1-7). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use materials and construction to meet IATA 602 as disclosed by Boyd—Moss et al in the container disclosed by Hill as modified by Hurwitz, Travis and Bower to allow the container to be used for transport of hazardous materials.

26. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hill as modified by Hurwitz, Travis and Bower in view of McHutchison (WO 02/18210 A1, March 7, 2002). Hill as modified by Hurwitz discloses the invention except for the outer shell capable of withstanding an internal pressure, which produces a pressure differential of not less than 95 kPa in the range of –40 degrees C to +55 degrees. McHutchison discloses an insulted container that it is able to transport human organs at pressures other than atmospheric pressure because this allows organs to be conserved for a longer period of time. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the ability to transport human organs at pressures other than atmospheric pressure in the container of Hill as modified by Hurwitz, Travis and Bower. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the capability of

withstanding an internal pressure which produces a pressure differential of not less than 95 kPa in the range of –40 degrees C to +55 degrees, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA).

Response to Arguments

27. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HARRY A. GROSSO whose telephone number is

(571)272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Harry A. Grosso
/Harry A. Grosso/
Examiner, Art Unit 3781

hag